

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

BAIS CHAYA ESTHER, INC, ET AL.,

Plaintiffs,

-against-

TOWN OF WAWARSING, NEW YORK,

Defendants.

**SIXTH
STIPULATION OF STAY**

Civil Case No.: 1:21-cv-01326
(DNH/CFH)

WHEREAS, the Plaintiffs herein instituted this action to challenge certain 2019 and 2021 zoning amendments adopted by the Town of Wawarsing (“Town”) in relation to land use regulations on religious camps in the Town, and

WHEREAS, the Plaintiffs and the Town agreed to several Stipulations of Stay, to provide the Town with time to consider revisions to its Zoning Ordinance and for the parties to seek to resolve this matter, which were granted by the Court and the last will expire on July 17, 2023, and

WHEREAS, the Plaintiffs and the Town appeared before Magistrate Hummel for a settlement conference and agreed to the terms for a settlement of this action, and

WHEREAS, the Plaintiffs and the Town entered into a Settlement Agreement dated July 13, 2023, which they presented to the Court on July 14, 2023, and which includes a provision for the Town to enact Zoning Amendments, and

WHEREAS, the Town requires additional time to complete the statutory process to enact these Zoning Amendments, which are expected to occur no later than August 22, 2023,

NOW, THEREFORE, the parties agree to stay this action (“Stay”) upon the following terms:

1. This Stay, essentially to maintain the *status quo ante* pre-2019 Zoning Code for religious use camps, will be in effect until August 22, 2023, the day after the last expected effective date of the agreed Zoning Amendments. If the Zoning Amendments are adopted prior to that date, the parties will petition this Court for earlier termination of the Stay.

2. The Town will not during this Stay enact a zoning moratorium affecting religious camp uses.

3. During this Stay, the Town will refrain from zoning enforcement of religious camp uses, with the exception of the enforcement of New York State building codes or for health and safety violations. It is also understood and agreed that no vested rights shall accrue as a result of this Stay and its conditions.

4. During this Stay there shall be no new or expansion of camp uses by Plaintiffs, except for Plaintiffs seeking approval and construction of new non-housing structures. While expansion of other buildings is not permitted, repair and maintenance and actual replacements in kind shall be permitted. Replacements in kind for purposes of this Stay includes reconfiguration of rooms or other interior elements of buildings, but replacements may not be larger in total dimensions than that which it is replacing.

5. During this Stay, the Town shall expeditiously review and act upon applications by the Plaintiffs for Certificates of Occupancy for completed projects, including but not limited to Plaintiff Talmud Torah Ohr Moshe's synagogue, classrooms, and school hall.

6. Either party, for cause shown, may petition this Court to dissolve this stay at any time.

Attorneys for Town of Wawarsing

Attorneys for Plaintiffs

Crystal R. Peck
Dated: July 14, 2023

Anu T...
Dated: July 14, 2023

IT IS SO ORDERED:

David N. Hurd
David N. Hurd
U.S. District Judge

Dated: July 17, 2023